

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4063 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MASKATI PANCHKUVA KAPAD MAHAJAN HATH LARI MANDALI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR LN MEDIPALLY for Petitioner

MR SAMIR DAVE for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/12/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. No reply to the Special Civil Application has been filed.

2. The petitioner, Maskati Panchkuva Kapad Mahajan Hath Lari Mandali, filed this writ petition challenging thereunder the notification dated 20th July, 1987, annexure 'F' passed by the respondent no.2. Under this notification, the respondent no.2 has prohibited the

members of the petitioners' association from carrying out their business/trade by using animal carts or carts pulled by the members of the association for a period of six hours in a day at various areas in Ahmedabad city, as indicated in the notification.

3. Though prima-facie the challenge to notification appears to be not on any cogent and justified reasons, but the operation of this notification has been stayed by this court way back on 17th August, 1987 and as such, I do not consider it appropriate to decide this matter on merits. This course I am adopting for another reason that for all these years, the respondents have not cared even to file reply to the Special Civil Application, what to say to file an application for vacation of interim relief meaning thereby, the respondent no.2 who passed this notification has not taken it to be so serious and he made this exercise only on papers and he does not want to see that it should have been given effect to in reality. This conduct of the respondent no.2 not to take the steps to see that stay is vacated, not to file reply to the petition and to get the petition decided at an early date, deserves special attention, and only conclusion which comes from there is that the State functionaries are taking everything casually. The respondent no.2 has not taken serious interest and only felt himself satisfied in passing of the order on paper. To meet out the difficulty of the travelling public, the vehicular traffic passing on the roads of Ahmedabad city and to avoid the traffic hazard, effective steps should have been taken by the respondent no.2 and the notification which has been issued and impugned in this writ petition may be one of the link in the steps, but what actually, the respondent no.2 did is otherwise.

4. In view of this fact, when for all these years this court has stayed the operation of notification, it is rather in the larger interest that the matter may be considered afresh and respondent no.2 may pass appropriate order in the interest of the public at large after hearing the petitioners. It is a matter of concern of the public at large and it is expected of the respondent no.2 that appropriate order shall be passed by it, regarding permitting or not permitting the members of the petitioner-association on the roads of Ahmedabad city, within a period of two months from the date of receipt of the copy of this order. It is expected of the counsel for the respondents that he will brought to the notice of the respondent no.2 this decision immediately on receipt of copy thereof from the registry.

5. The writ petition is disposed of in the aforesaid terms and rule stands disposed of accordingly with no order as to costs.

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